

EXHIBIT 5

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substantively consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and the
consolidated Chapter 7 Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

THE ESTATE OF MARK D. MADOFF and
ANDREW H. MADOFF, individually and as Executor
of the Estate of Mark D. Madoff,

Defendants.

Adv. Pro. No. 09-01503 (SMB)

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Adv. Pro. No. 10-03483 (SMB)

Plaintiff,

v.

MADOFF TECHNOLOGIES LLC, MADOFF
BROKERAGE & TRADING TECHNOLOGY, LLC,
PRIMEX HOLDINGS, LLC, ESTATE OF MARK D.
MADOFF, and ANDREW MADOFF, individually
and in his capacity as Executor of the ESTATE OF
MARK D. MADOFF,

Defendants.

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

Irving H. Picard, being duly sworn, hereby attests as follows:

1. I am the trustee for the substantively consolidated SIPA Liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) and the consolidated Chapter 7 Estate of Bernard L. Madoff (“Madoff,” and together with BLMIS, collectively, the “Debtors”). I respectfully submit this Affidavit in support of the motion seeking entry of an order pursuant to Section 105(a) of the Bankruptcy Code, 11 U.S.C. §§101 *et seq.*, and Rules 2002 and 9019 of the Federal Rules of Bankruptcy Procedure, approving a Stipulation and Order of Settlement (“Stipulation”) by and between the Trustee, the United States Attorney’s Office for the Southern District of New York, by Joon H. Kim, Acting United States Attorney (the “United States Government”), and David Blumenfeld in his capacity as Successor Executor of the Estate of Mark D. Madoff, Martin Flumenbaum in his capacity as Executor of the Estate of Andrew H. Madoff, and Stephanie Mack (the “Settling Defendants”).

2. This Affidavit is based upon my own personal knowledge or upon information that I believe to be true.

3. All capitalized terms not defined herein have the meaning ascribed to them in the Motion.

4. I believe that the terms of the Stipulation fall well above the lowest point in the range of reasonableness and, accordingly, the Stipulation should be approved by this Court.

5. This settlement is a global and complete resolution of all claims brought by the Trustee against all remaining Defendants in the above-captioned proceedings (as well as all claims held by the United States Government against the Settling Defendants).

6. The settlement results in the payment and transfer of all cash, securities, business interests and other assets and proceeds of the fraud owned and/or held by the Mark Madoff Estate and Andrew Madoff Estate (valued at over \$21.5 million), leaving the Estates with only \$1,750,000 and \$2,000,000, respectively. The total recovery from all Settling Defendants is over \$23 million.

7. The Mark Madoff Estate and the Andrew Madoff Estate have also agreed to withdraw their general unsecured creditor claims in the collective amount of \$53,848,721.06 and \$45,690,776.95, respectively, asserting claims for deferred compensation that allegedly had accrued in their purported deferred compensation accounts, as well as purported unpaid salaries, bonuses, and investments in Madoff Securities International ("MSIL").

8. The Andrew Madoff Estate has also agreed to withdraw its customer claims, seeking to recover funds held in accounts at the time of BLMIS's collapse.

9. I recognize that litigating these claims against and involving the estates of deceased defendants Mark Madoff and Andrew Madoff would be complex, create significant delay, and involve litigation risk and difficulties associated with collection.

10. Given the potential impact of these issues, and the cost and complexities involved in proceeding with litigation, I have determined, in my business judgment that the Stipulation represents a fair and reasonable compromise of the Debtors' claims in these proceedings.

11. I respectfully submit that the Stipulation represents a reasonable compromise of the Trustee's claims and should be approved to avoid lengthy, costly and burdensome litigation.

Sworn to before me this
26th day of June 2017

/s/ Irving H. Picard
IRVING H. PICARD

/s/ Gracemary Curbelo
Notary Public

Gracemary Curbelo
Notary Public, State of New York
No. 01CU6288700
Qualified in Westchester County
Certificate filed in New York County
Commission Expires: September 9, 2017